

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION**

EMERSON CREEK POTTERY INC.)
Plaintiff,) Case No.: 6:20CV0054
v.)
COUNTRYVIEW POTTERY CO.,)
EMERSON CREEK EVENTS, INC.,)
CHRISTINA DEMIDUK, and)
DAVID DEMIDUK)
Defendants.)

AFFIDAVIT OF DAVID DEMIDUK

I, David Demiduk, being duly sworn and upon oath, do hereby state that I am over the age of 21 years, am of sound mind, am capable of making this Affidavit, am competent to testify, and if called to testify at the time of trial would state the following:

1. I have personal knowledge of the facts and statements contained within this Affidavit.

2. I am one of the Defendants in the above captioned matter.

3. During my deposition, I informed Plaintiff's attorney that during the migration of Defendants' G-suite account, email accounts could not be accessed. Jonathan Domanus ("Domanus") agreed and did assist Defendants to retrieve the emails. These issues occurred starting in 2019 through 2021.

4. Domanus worked for Lindsay Winkler Design (“Winkler Design”) on the technical side of Defendants’ email accounts, website, mailers, and customer intake. It was my understanding that all emails would be preserved during the migration. Neither I nor

anyone for Defendants deleted emails other than obvious unrelated ones, such as unrelated spam.

5. I worked with Winkler Design to retrieve relevant emails, mailers, and customer intake through the fall of 2021.

6. On October 29, 2021, I learned that Winkler Design released all electronic data it had regarding Defendants to Plaintiff's counsel, without in any way allowing Defendants' attorney the ability to remove what Defendants might consider irrelevant or confidential information. In fact, none of Defendants' attorneys were shown what was produced by Winkler Design until it was produced to Defendants' attorneys. This data production was 18,000 pages.

7. In the meantime, in November 2021, I produced to Defendants' attorneys what emails Defendants had access to, but these were mainly emails of Defendants' efforts to settle the case with Plaintiff.

8. Throughout November 2021, I worked with Domanus to access the emails because Winkler Design controlled the emails, website, mailers, and customer intake for Defendants. I believed that any emails produced by Defendants would be duplicative of and a subset of those produced by Winkler Design.

9. Sometime in the first week of December 2021, Defendants, with the assistance of Domanus, were ultimately able to access the emails.

10. On December 6, 2021, I forwarded to Defendants' attorney, Ken McLaughlin, a dozen emails, in which were embedded zip files and emails with attachments for all emails I could find based on a search of Emerson Creek Pottery, including searches for: Jim Leavitt, Emersoncreekpottery.com, Bedford Va., Lindsay Winkler, and Jonathan

Domanus. I did my best to determine the search terms I thought would pull up what Plaintiff was looking for. I did not intentionally avoid a search term to withhold information. Over 3,000 electronic documents were provided, plus their attachments.

11. I shared the search terms in the last email I sent to Ken McLaughlin on December 6, 2021. I expressed frustration that I could have printed the emails out earlier, but I did not intend to convey that I deleted any emails or other materials. Rather, I was frustrated that I was reviewing and producing thousands of documents in a short period of time.

12. Throughout the TTAB litigation and this lawsuit, Defendants' attorneys have requested information from Chris Demiduk and me as written discovery has been sent by Plaintiff's attorneys. I have produced everything Defendants have. I believe that the documents Winkler Design produced are everything that could exist since Winkler Design controls the website and electronic communications for Defendants.

FURTHER AFFIANT SAYETH NAUGHT.



David Demiduk

SUBSCRIBED AND SWORN TO
before me this 10th day of February, 2022.



NOTARY PUBLIC


OFFICIAL SEAL
PATRICIA J MOORE
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES: 02/01/2025